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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,729	02/18/2004	Fujikazu Sugimoto	118593	1727

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EXAMINER	
SABOURI, MAZDA	
ART UNIT	**PAPER NUMBER**
2617	

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/779,729	SUGIMOTO ET AL.	
	Examiner	Art Unit	
	Mazda Sabouri	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,9 and 10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,9 and 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/28/2006 have been fully considered but they are not persuasive.

2. With regard to independent claims 1,9 and 10, applicant argues that Veghte fails to disclose deleting an update time from the extracted newly updated data. Examiner respectfully traverses this argument. Applicant argues that Veghte only teaches overwriting timestamps in a file transfer process involving only a single computer. Examiner notes that while the system of Veghte might only comprise a single computer, it still qualifies as analogous art. The system of Veghte synchronizes files on the same computer, such that when data in one file is updated, data in a corresponding file is updated automatically (see Veghte, Summary of the Invention). The system of claims 1,9 and 10 does teach having the files on separate computers. However, the similarity of the inventive concepts (synchronizing separate files) of Veghte and the claimed system qualify Veghte as analogous art. Furthermore, the Boothby already meets the limitation of synchronizing files on separate computers, as noted in the prior office action below. Applicant further argues that file deletions of Veghte are for the entire file that is moved, and not specifically to extracted newly updated data. Examiner notes that the language of claims 1,9 and 10 does not preclude file deletions for data other than the extracted newly updated data. Veghte teaches deleting an update time from extracted newly update data, as noted in the prior office action below.

3. With regard to independent claims 1,9 and 10, applicant further argues that Boothby fails to disclose sending **only** newly updated data. Examiner respectfully traverses this argument. Examiner notes that the language of claims 1,9 and 10 does not recite sending **only** extracted newly updated data. Claims 1,9 and 10 recite sending extracted newly updated data. Boothby does teach sending extracted newly updated data, as noted in the prior office action below.

4. With regard to claim 5, applicant argues that Boothby does not teach sending a first and second communication identifier code. Examiner notes that the file names or data record names of Boothby can read on identifier codes. It is inherent, or well known at the very least, that file names or data record names in computers would be represented as some sort of binary code (ASCII code for example). The language of claim 5 does not distinguish the code as being different than a standard binary code representation of files names or data record names. Furthermore, examiner notes that while the claims are read in light of the specification, the specification cannot be read into the claims.

5. Examiner notes that the applicant has amended claim 10 to overcome the 35 USC 112 rejection in the prior office action. Examiner has withdrawn the 35 USC 112 rejection from the prior office action below. However, the 35 USC 103 rejections for claims 1-5,9 and 10 (claims 6-8 have been cancelled) from the prior office action stand, for the reasons mentioned above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1,3&9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication 2001/0014893 A1 to Boothby in view of U.S. Patent No. 5, 897,640 to Veghte et al. *(hereinafter Veghte)*, further in view of U.S. Patent Publication 2004/0219890 to Williams et al. *(hereinafter Williams)*.

With respect to claims 1&9, Boothby teaches a data backup system and a data backup method to back up data in a data backup system including a wearable computer including a receiving device to receive backup data and a backup-data writing device to write the backup data to a second storage device (paragraphs 2,8,16&20); and a portable information terminal that carries out data communication with the wearable computer (paragraphs 16,59,60), the portable information terminal including, a first storage device to store predetermined data, a history of updates of the data, and a

history of backups of the data (paragraphs 2,18,16,19,59,60); an extracting device to read the update history and the backup history from the first storage device, compare a time of the last backup indicated by the backup history with a time of the last update indicated by the update history, search for data newly updated since the time of the last backup, extract the newly updated data of the data, and a data sending device to send the backup data extracted (paragraphs 2,18,16,19,59,60).

Boothby fails to expressly disclose deleting an update time from the extracted newly updated data.

In the same field of endeavor, Veghte teaches a similar system and method wherein the update time is deleted from an extracted newly updated data (Col 8 Lines 13-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to delete an update time from the extracted newly updated data so that the data is synchronized.

Boothby in view of Veghte fails to expressly disclose that the computer (e.g. PDA) is a wearable computer.

In the same field of endeavor, Williams teaches that PDAs are wearable (paragraph 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to wear the computer for the advantage of making it more easily accessible to a user.

With respect to claim 3, Boothby in view of Veghte teaches the data backup system according to Claim 1, the predetermined data and the backup data each including an identifier representing the predetermined data, and the backup-data writing device compares an identifier of backup data stored in advance in the second storage device with an identifier of the backup data received, and writes the backup data received in the second storage device when these identifiers coincide with each other (paragraphs 2,5,6).

9. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication 2001/0014893 A1 to Boothby in view of U.S. Patent No. 5, 897,640 to Veghte et al. *(hereinafter Veghte)* further in view of U.S. Patent Publication 2004/0219890 to Williams et al. *(hereinafter Williams)* and further in view of U.S. Patent Publication 2003/0120685 to Duncombe et al. *(hereinafter Duncombe)*.

Boothby in view of Veghte further in view of Williams teaches the data backup system according to claim 1. Boothby fails to expressly disclose the portable information terminal further comprising: a data compressing device to compress the backup data, and the data sending device sends the compressed backup data, and the wearable computer further comprises: a data expanding device to expand the compressed backup data received by the receiving device.

In the same field of endeavor, Duncombe teaches a similar system where the portable information terminal further comprises: a data compressing device to compress the backup data, and the sending device sends the compressed backup data, and the

wearable computer further comprises: a data expanding device to expand the compressed backup data received by the receiving device (paragraph 29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Boothby to include a data compressing device in the portable information terminal and a decompressing device in the wearable computer to reduce the time taken for the data transfer.

10. Claims 4,5&10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication 2001/0014893 A1 to Boothby in view of U.S. Patent No. 5, 897,640 to Veghte et al. *(hereinafter Veghte)* further in view of U.S. Patent Publication 2004/0219890 to Williams et al. *(hereinafter Williams)* and further in view of U.S. Patent Publication 2002/0010807 A1 to Multer et al. *(hereinafter Multer)*.

With respect to claim 4, Boothby in view of Veghte further in view of Williams teaches the data backup system according to Claim 1. Boothby fails to specifically mention the first storage device further storing in advance a predetermined communication identifier, the sending device sending a communication-connection request using the communication identifier, and the wearable computer further comprising: an authenticating device to compare a communication identifier received by the receiving device with a Communication identifier stored in advance in the second storage device, and permitting connection by the portable information terminal when these identifiers coincide with each other.

In the same field of endeavor, Multer teaches a similar system wherein the first storage device further storing in advance a predetermined communication identifier, the

sending device sending a communication-connection request using the communication identifier, and the wearable computer further comprising: an authenticating device to compare a communication identifier received by the receiving device with a Communication identifier stored in advance in the second storage device, and permitting connection by the portable information terminal when these identifiers coincide with each other (paragraphs 222-224).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the communication identifier and the authenticating device for the advantage of increased security.

With respect to claim 5, Boothby in view of Veghte further in view of Williams and further in view of Multer teaches a wearable computer that carries out data communication with a portable information terminal (Boothby, paragraphs 16,59&60) comprising: a first receiving device to receive a first communication identifier (*the authentication information of Multer*) and a second communication identifier (*the filename or "data record" name*) of the portable information terminal from the portable information terminal; an authenticating device to compare the first communication identifier received with a communication identifier stored in advance in a predetermined storage device, and permitting connection by the portable information terminal when these identifiers coincide with each other; a second receiving device to receive backup data from the portable information terminal when connection has been permitted by the authenticating device; and a backup-data writing device to write the backup data in the

storage device (Multer, paragraphs 222-224); and a writing device to write the second communication identifier in the storage device (Boothby, paragraphs 48,49,53).

With respect to claim 10, based on the Examiner's uncertainty as to what the computer program product is as mentioned in the 35 U.S.C. 112 rejection above, for examination on the merits, the Examiner shall interpret the claim to refer to a computer readable medium containing a computer program.

Boothby teaches searching for data newly updated since a time of the last backup; extracting the newly updated data of the data, sending the extracted newly updated data as the backup data to the wearable computer; receiving the backup data from the portable information terminal; and writing the backup data in the predetermined storage device. Boothby fails to expressly disclose deleting an update time from the extracted newly updated data or the program embodied on a computer readable medium.

In the same field of endeavor, Veghte teaches deleting an update time from the extracted newly updated data (Col 8 Lines 13-17) and the program embodied on a computer readable medium (Claim 15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to delete an update time from the extracted newly updated data so that the data is synchronized.

Boothby in view of Veghte fails to expressly disclose that the computer (e.g. PDA) is a wearable computer.

In the same field of endeavor, Williams teaches that PDAs are wearable (paragraph 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to wear the computer for the advantage of making it more easily accessible to a user.

Boothby in view of Veghte, further in view of Williams fails to expressly disclose receiving a communication identifier of the portable information terminal from the portable information terminal.

In the same field of endeavor, Multer teaches a data backup computer program comprising: receiving a communication identifier of a portable information terminal from the portable information terminal; comparing the communication identifier received with a communication identifier stored in advance in a predetermined storage device, and permitting connection by the portable information terminal when these identifiers coincide with each other and allowing transfer of data after connection has been permitted (paragraphs 222-226).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of Boothby to include the authentication process for the advantage of increased security.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mazda Sabouri whose telephone number is 571-272-8892. The examiner can normally be reached on Monday-Friday from 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 561-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mazda Sabouri
Examiner
Art Unit 2617

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